BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

SHIRLEY SIMMS Claimant	}
VS.))) Docket No. 192,861
DILLON LIVING CENTER Respondent) DOCKET NO. 192,001
AND	
SELF-INSURED Insurance Carrier	

ORDER

Claimant requested review of the Preliminary Hearing Order entered by Administrative Law Judge George R. Robertson on February 17, 1995.

ISSUES

On remand, the Administrative Law Judge denied claimant's requests for medical and temporary total disability benefits. Claimant requests review of those findings.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the entire record, for purposes of preliminary hearing, the Appeals Board finds as follows:

At this juncture of the proceeding, the Appeals Board lacks jurisdiction to review the preliminary hearing findings of the Administrative Law Judge that claimant is presently neither temporarily and totally disabled nor in need of medical care and treatment.

The jurisdiction of the Appeals Board to review preliminary hearing findings is statutorily created by K.S.A. 44-534a. The statute provides the Appeals Board may review those preliminary findings pertaining to the following: (1) whether the employee suffered an accidental injury; (2) whether the injury arose out of and in the course of the employee's employment; (3) whether notice was given or claim timely made; and (4) whether certain defenses apply.

IT IS SO ORDERED.

Similarly, K.S.A. 44-551, as amended by S.B. 59, 1995, empowers the Appeals Board to review findings of the Administrative Law Judge where it is alleged they have exceeded their jurisdiction and authority.

Neither issue presented herein is one enumerated in K.S.A. 44-534a, nor did the Administrative Law Judge exceed his jurisdiction and authority. Therefore, neither issue raised by the claimant is reviewable under either of the above statutes. Although claimant may disagree with the Judge's decision, the Administrative Law Judge has the authority to decide and rule upon those issues.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Preliminary Hearing Order of Administrative Law Judge George R. Robertson entered in this proceeding on February 17, 1995, remains in full force and effect and this review is dismissed.

Dated this day of Ma	ay 1995.
	BOARD MEMBER
	BOARD MEMBER
	BOARD MEMBER

c: James S. Oswalt, Wichita, KS Scott J. Mann, Hutchinson, KS George R. Robertson, Administrative Law Judge George Gomez, Director